

JUL 07 2006

NEBRASKA DEPARTMENT
OF INSURANCE

CAUSE NO.: A-1657

FINDINGS OF FACT.

CONCLUSIONS OF LAW,

RECOMMENDED ORDER AND

ORDER

FINDINGS OF FACT

1. Respondent is a licensed resident insurance producer whose registered address with the Department as of March 23, 2006 is 4055 S. 39th Street, Lincoln, NE 68506. (Ex. 2).
2. The Department is the agency of the State of Nebraska charged with licensing insurance producers.

3. On or about March 16, 2006, the Petition and Notice of Hearing were served upon Respondent by mailing the same to his business and home addresses of record by certified mail, return receipt requested. On or about March 22, 2006, Respondent received the certified mail sent to his home address as evidenced by the signed certified mail return receipt attachment to Exhibit 1. (Ex. 1)

4. On or about March 22, 2006, the Petition and Notice of Hearing mailed to Respondent at his then registered business address of Associated Insurance Managers, Inc., 5101 Central Park Drive, Suite 110, Lincoln, NE 68504 was returned to the Department by the U.S Postal Service marked "Return to Sender Attempted Not Known." (Ex. 1)

5. By affidavit, Janet Roberts ("Roberts"), Staff Assistant of the Licensing Division of Department, testified as follows: Respondent holds a resident producers license in the State of Nebraska; On or about March 23, 2006, the Department received Respondent's renewal form for his resident producers license; Respondent's renewal form indicated that his business address had changed from Associated Insurance Managers, Inc., 5101 Central Park Drive, Suite 110, Lincoln, NE 68504 to 4055 S. 39th Street, Lincoln, NE 68506. (Ex. 2)

6. Larry J. Hall ("Hall"), a licensed insurance producer, testified that he has been a licensed insurance producer for approximately 38 years. Hall is the agency principal of Associated Insurance Managers, and currently employs 4 insurance producers. Respondent was affiliated with Associated Insurance Managers under an independent business contractor's agreement from January 2004 until the agreement was terminated in May 2005. After Respondent's termination, Hall reviewed the files of the Respondent and discovered problems with the files including forged customer signatures. Hall then

contacted the Department and provided documentation to the Department's Market Conduct Division. Hall identified documents found in exhibits 3 through 9 as being documents he provided to the Department. Hall testified that customer signatures are required on applications for new insurance policies by both the insurance companies and the state. These signatures attest that the information in the application is complete and true and is being offered to the company as an inducement to issue insurance. Forged signatures could invalidate the customer's coverage. Hall declined to respond to questions from Respondent regarding Respondent's termination date due to pending legal issues.

7. Holly Lynn Blanchard ("Blanchard"), Market Conduct Examiner for the Department, testified that her job duties include investigating agent misconduct. Blanchard conducted an investigation initiated by Hall's communication to the Department regarding problems with Respondent's files. Hall provided documents to the Market Conduct Division that were believed to contain forged signatures. Blanchard contacted thirty-one potential applicants requesting additional information. Eighteen of these individuals responded, and approximately 95% of those responding advised that they had not signed their application. Some applicants did advise that they had given permission to have the application signed on their behalf. Blanchard has training in signature verification, and in her opinion the applicant signatures found in exhibits 3, 4, 5, 6, 7, 8 and 9 are forgeries. It is also Blanchard's opinion that Respondent signed the names of the applicants found in exhibits 3, 4, 5, 6, 7, and 9. Blanchard testified that failure to obtain an authentic signature on the application may compromise the integrity of the policy and invalidate coverage. The application also contains a producer statement verifying that applicant's signature is authentic. Blanchard testified that Respondent

signed the producer statements on the forged application, and as such was also making a misrepresentation to the insurance company.

8. By affidavit, Steven L. Lutz ("Lutz") testified that Lutz was a client of Respondent, and Lutz recalls discussing transferring his insurance from Allied/Amco to Travelers Insurance Company with Respondent. The signature appearing on the Nebraska Personal Auto Application purporting to be the signature of Lutz is not his signature. The signature appearing on the Cancellation Request/Policy Release purporting to be the signature of Lutz is not his signature. (Ex. 7)

9. By affidavit, Elaine Schumaker ("Schumaker") testified that on or about May 4, 2005, Respondent filled out an application to change Schumaker's auto insurance coverage to General Casualty Insurance Company of Wisconsin. The signature appearing on the Nebraska Personal Auto Application purporting to be the signature of Schumaker is not her signature. Schumaker did not authorize Respondent to sign the application on her behalf. (Ex. 8)

10. By affidavit, Tea Brown ("Brown") testified that on or about May 4, 2005, Respondent filled out an application to change Brown's auto insurance coverage to Great Casualty Insurance Company. Brown did not authorize Respondent to apply for this coverage on his behalf. The signature appearing on the Nebraska Personal Auto Application purporting to be the signature of Brown is not his signature. Brown did not authorize Respondent to sign the application on his behalf. (Ex. 9)

11. Exhibits 11, 12, 13 and 14 offered by Respondent were admitted into the record with the acknowledgement that they contained many similar documents of those included in Exhibits 3, 4, 5 and 6, offered by the Department.

12. Respondent provided rebuttal testimony that his termination from Associated Insurance was not given to him in writing and therefore he did not consider himself terminated. Respondent further stated that he is disputing the May 23, 2005 termination date, and there is pending litigation regarding his termination from Associated Insurance Managers. Respondent does not believe he is required to change his business address until he is properly terminated or finds another place of employment.

13. Respondent testified that the applications found in exhibits 3 through 9 all represent changes requested by the applicants, that each change was for an improvement in coverage, and he was saving people money.

14. Respondent admits that he signed the applicant's name on the applications found in exhibits 3, 4, 5, 7, 8, and 9. Respondent could not recall whether he signed the applicant's name on the application found in exhibit 6.

15. Respondent provided an unsigned response to Blanchard's letter to Paljoe Magsby advising the Department that the signature found on Masby's application was authentic. (Ex. 18)

16. Respondent provided a response to Blanchard's letter to Stephan Schilke, signed by Gina Schilke, advising that Gina Schilke gave Respondent permission to sign her name and that she was very happy with her policy. (Ex. 19)

17. Judicial notice was taken of Cause No. A-1606, an action filed against Respondent on or about December 13, 2004. The petition filed in this action alleges violations of Neb. Rev. Stat. § 44-4059(1)(b) and (h) based upon the Respondent soliciting auto insurance without being appointed with the insurer, and purporting to bind coverage without having authority to bind coverage. On or about January 28, 2005, this action was dismissed without prejudice.

18. Exhibit numbers 10 and 15 were omitted.

CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over the licensing of Respondent to sell insurance in the State of Nebraska pursuant to Neb. Rev. Stat. §§ 44-101.01 and 44-4047 et seq.

2. The Department has personal jurisdiction over Respondent.

3. Pursuant to Neb. Rev. Stat. § 44-4059(1), the Director may suspend, or revoke an insurance producer's license, or levy an administrative fine for any one or more of the following causes: (b) violating any insurance law or violating any rule, regulation, subpoena, (h) using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere, or (j) forging another's name to an application for insurance or to any document related to an insurance transaction.

4. Respondent violated Neb. Rev. Stat. § 44-4059(1)(b), (h), and (j) through the following actions:

- a. Forging the signature of Terra Gossard on a Nebraska Personal Auto Application.
- b. Forging the signature of Mike Wenzl on a Nebraska Personal Auto Application.
- c. Forging the signature of Brian Jackson on a Nebraska Personal Auto Application.
- d. Forging the signature of Elaine Schumaker on a Nebraska Personal Auto Application.

e. Forging the signature of Tea Brown on a Nebraska Personal Auto Application.

f. Attesting to the authenticity of the forged signature of Steven L. Lutz on a Nebraska Personal Auto Application.

5. Pursuant to Neb. Rev. Stat. § 44-4059(4) in lieu of any applicable denial, suspension, or revocation of a license, an insurance producer violating Neb. Rev. Stat. § 44-5059(1) may be subject to an administrative fine of not more than one thousand dollars per violation.

6. Neb. Rev. Stat. § 44-1525(10), it shall be an unfair trade practice to make false or fraudulent statements or representations on or relative to an application for a policy for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, agent, broker, or individual person.

7. Respondent violated Neb. Rev. Stat. §§ 44-1525(10) and 44-4059(1)(b) by attesting to the authenticity of signatures on applications provided to insurers when Respondent knew that such signatures were in fact not the signatures of the applicants.

8. Pursuant to Neb. Rev. Stat. § 44-4059(8), licensees shall inform the director of a change of address within thirty days after the change, or shall be subject to a fine of not more than five hundred dollars per violation.

9. Due to the dispute and ongoing litigation regarding the proper termination date of Respondent's contract with Associated Insurance Managers, this hearing officer declines to determine as a matter of law that Respondent violated Neb. Rev. Stat. § 44-4054(8).

10. Respondent's admission as to his actions in signing the names of applicant's on insurance applications, evidence as to applicant's request for the insurance policies,

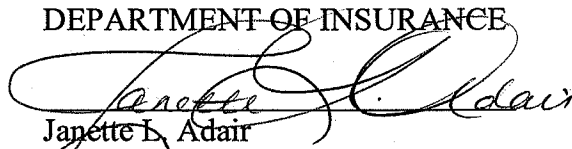
and the ongoing dispute between Respondent and Hall's agency, are found to be a mitigating factors in determining the recommended penalty in this case.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent pay an administrative fine of three thousand dollars (\$3,000.00) due within 30 days after the Director of Insurance or his designee signs the certificate adopting this order.

Dated this 7th day of July, 2006.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE

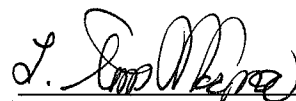

Janette L. Adair
Hearing Officer

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the Recommended Order is adopted as the official and final Order of this Department in the matter of State of Nebraska Department of Insurance v. Jeffrey Gossin, Cause No. A-1657.

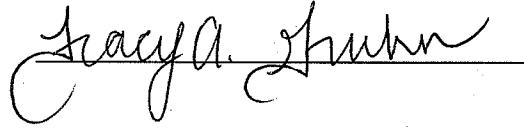
Dated this 7th day of July, 2006.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


L. TIM WAGNER
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order and Order was served upon the Respondent by mailing a copy to Respondent at 4055 S. 39th Street, Lincoln, NE 68506 by certified mail, return receipt requested, on this 10th day of July, 2006.

A handwritten signature in cursive script, reading "Tracy A. Zuhm", is written over a horizontal line.